

D.T.E. 04-27

Petition of Fitchburg Gas and Electric Light Company, pursuant to G.L. c. 25, § 19 and G.L. c. 25A, § 11G, for approval by the Department of Telecommunications and Energy of an Energy Efficiency Plan for 2004.

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FOR: FITCHBURG GAS AND ELECTRIC LIGHT
COMPANY
Petitioner

I. INTRODUCTION

On February 24, 2004, Fitchburg Gas and Electric Light Company (“Fitchburg” or “Company”) filed with the Department of Telecommunications and Energy (“Department”) its Energy Efficiency Plan for 2004 (“2004 Plan”).¹ The filing was made pursuant to G.L. c. 25, § 19, G.L. c. 25A, § 11G, and Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000) (“DTE Guidelines”). The Department docketed this filing as D.T.E. 04-27.

On March 4, 2004, Fitchburg filed revisions to the 2004 Plan to be considered in its request for approval of the 2004 Plan. On March 24, 2004, pursuant to G.L. c. 25A, § 11G, 225 C.M.R. §§ 11.00 et seq., and the DTE Guidelines at § 6.2, the Commonwealth of Massachusetts, Division of Energy Resources (“DOER”), filed a report on the 2004 Plan with the Department (“DOER Report”).² The DOER Report concluded that the 2004 Plan is consistent with the statewide energy efficiency goals required by G.L. c. 25A, § 11G, and with DOER’s Guidelines for energy efficiency programs (DOER Report at 3). Oversight and Coordination of Electric Ratepayer Funded Energy Efficiency Activities, 225 C.M.R. §§ 11.00

¹ Fitchburg stated that the 2004 Plan is jointly sponsored by the Low-Income Energy Affordability Network (February 24, 2004 Fitchburg letter to the Department).

² The Department commences review of energy efficiency plans after DOER files its report with the Department. G.L. c. 25A, § 11G; 225 C.M.R. § 11.00 et seq.; DTE Guidelines at § 6.2(3).

et seq. On April 6, 2004, the Department issued a notice of filing and request for comments. No comments were submitted.³

II. STANDARD OF REVIEW

The Department is required to ensure that energy efficiency activities are delivered in a cost-effective manner using competitive procurement processes to the fullest extent practicable. G.L. c. 25, § 19; G.L. c. 25A, § 11G. The Department has established guidelines that, among other things, set forth the manner in which the Department reviews ratepayer-funded energy efficiency plans in coordination with DOER, pursuant to G.L. c. 25, § 19 and G.L. c. 25A, § 11G. See D.T.E. 98-100.

DOER has the authority to oversee and coordinate ratepayer-funded energy efficiency programs, consistent with specified goals, and is required to file annual reports with the Department regarding proposed funding levels for said programs. G.L. c. 25A, § 11G; 225 C.M.R. §§ 11.00 et seq. If the DOER report concludes that ratepayer-funded energy efficiency programs are consistent with state energy efficiency goals, and if no objection to the DOER report is raised, the Department's review of the 2004 Plan is limited to cost-effectiveness issues and the use of competitive processes. DTE Guidelines at § 6.2; 225 C.M.R. §§ 11.00 et seq.

³ On its own motion, the Department moves into the record of this proceeding, the 2004 Plan as revised on March 4, 2004. In addition, the Department incorporates by reference into the record of this proceeding the DOER Report. 220 C.M.R. § 1.10(3).

III. THE COMPANY'S 2004 ENERGY EFFICIENCY PLAN

A. Cost-effectiveness

Pursuant to the DTE Guidelines: (1) an energy efficiency program shall be deemed cost-effective if its benefits are equal to or greater than its costs, as expressed in present value terms; and (2) before implementation, each Program Administrator shall file with the Department sufficient information, including assumptions, to support the determination of cost-effectiveness for all proposed energy efficiency programs. DTE Guidelines at §§ 3.5, 4.2.1.⁴

To measure a program's pre-implementation benefits in comparison to its pre-implementation costs, Fitchburg calculated a benefit/cost ("B/C") ratio for each of its proposed 2004 energy efficiency programs (2004 Plan, App. A, Table A-1). Fitchburg reported pre-implementation B/C ratios ranging from 1.1 to 3.6 (2004 Plan, App. A, Table A-1, rev.). Fitchburg also provided detailed cost and benefit information in support of each B/C ratio (2004 Plan, App. A, Tables A-2, rev.; A-3). Costs for each program were categorized in terms of program administration, implementation, customer contributions, evaluation, and shareholder performance incentives (id.). Benefits for each program were categorized in terms of capacity, energy, and non-electric savings (id.).

⁴ Each energy efficiency program is also subject to a post-implementation evaluation, addressing post-implementation estimates of energy savings, capacity savings, and other savings as well as post-implementation costs. Shareholder incentives are also determined as a result of the post-implementation evaluation. See DTE Guidelines §§ 4.1, 4.2.2, 5.3.

B. Competitive Procurement

Pursuant to G.L. c. 25, § 19, the Department is required to ensure that the delivery of an electric company's energy efficiency programs uses competitive procurement to the fullest extent practicable. Fitchburg provided a table illustrating the percentages of outsourced and competitively procured energy efficiency services for 2004 (2004 Plan at 7). According to Fitchburg: (1) 77 percent of its residential energy efficiency services will be outsourced and 96 percent of those residential outsourced services will be competitively procured; (2) 71 percent of its low-income energy efficiency services will be outsourced and 27 percent of those low-income outsourced services will be competitively procured; and (3) 54 percent of its commercial and industrial ("C&I") energy efficiency services will be outsourced and 100 percent of those C&I outsourced services will be competitively procured (id.)

C. Analysis and Findings

1. Cost-effectiveness

Fitchburg provided evidence demonstrating that each of its proposed 2004 energy efficiency programs achieved a pre-implementation B/C ratio of 1.1 or greater (2004 Plan, App. A, Table A-1, rev.). The Department notes that there were no individual programs with a pre-implementation B/C ratio below 1.00 (id.). The Department reviewed the Company's B/C calculations and the detailed information provided in support of these calculations, and finds that the benefits and costs were determined consistent with Department criteria for establishing program cost-effectiveness. DTE Guidelines at §§ 3-4. Accordingly, the

Department finds the Company's 2004 energy efficiency programs, as estimated in the pre-implementation phase, to be cost-effective.

2. Competitive Procurement

Fitchburg provided evidence that it competitively procures and out-sources a high percentage of its energy efficiency program activities (2004 Plan at 7). Therefore, in accordance with G.L. c. 25, § 19, the Department finds that Fitchburg's 2004 Plan provides for competitive procurement to the fullest extent practicable.

IV. SHAREHOLDER INCENTIVES

A. Fitchburg's Shareholder Incentive Proposal

Fitchburg proposed an alternative to the method set forth in the DTE Guidelines for calculating the after-tax shareholder incentives that may result from implementation of its 2004 Plan (2004 Plan at 57-59, App. B). See DTE Guidelines at § 5.00. The Company stated that its shareholder incentive proposal is supported by the Low-Income Energy Affordability Network ("LEAN") (2004 Plan at 57). Fitchburg proposed to: (1) fix the after-tax shareholder incentive at five percent; (2) set the threshold level of performance at 75 percent; (3) set the exemplary level of performance at 110 percent; and (4) slightly reallocate the weights assigned to the savings and value determinants (2004 Plan at 57-59).⁵

⁵ In 2003, the Department approved Fitchburg's use of: (1) a fixed shareholder incentive rate of five percent, instead of the Treasury Bill rate in calculating its shareholder incentive; and (2) a threshold performance level of 70 percent and exemplary performance level of 110 percent of design level for use in its calculations of shareholder incentives. Fitchburg Gas and Electric Light Company, D.T.E. 03-44, at 10-13 (2003).

Fitchburg stated that the proposed five percent after-tax incentive rate is necessary because the “very low prevailing Treasury bill rates may not provide an appropriate incentive to the electric distribution companies” (id. at 57). In 2004, Fitchburg projects that it will have approximately \$1.7 million available to fund energy efficiency programs, including funding for the Company’s proposed performance incentive (id. at 2). Under Fitchburg’s proposal, the Company’s shareholder performance incentive would amount to approximately \$85,000 based on energy efficiency expenditures of about \$1.7 million in 2004 (2004 Plan at 2-3; App. B, Table B-1).⁶

Fitchburg stated that, if its threshold and exemplary proposal were approved, the Company’s shareholder incentive payment amount would range from 75 percent to 110 percent of its 2004 energy efficiency expenses, and that this threshold level is consistent with DTE Guidelines at § 5.2 (2004 Plan at 58). Fitchburg stated that a shareholder incentive would not be earned if an energy efficiency program failed to achieve the threshold level of 75 percent of design level performance (id.). Fitchburg further stated that even if an energy efficiency program accomplished more than 110 percent of design level performance, the shareholder incentive for such a program would nonetheless be capped at the 110 percent level (id. at 59).

Finally, Fitchburg proposes to continue the use of a savings determinant, a value determinant, and performance metric determinant (id. at 58). Consistent with the previous practice of using these determinants, each determinant is assigned a percentage weight.

⁶ The \$1.7 million includes unspent funds carried over from Fitchburg’s 2003 energy efficiency plan budget (2004 Plan at 3).

Fitchburg Gas and Electric Light Company, D.T.E. 03-44, at 13 (2003). Fitchburg proposes a slight reallocation of the weight assigned to the savings and value determinants for 2004 (2004 Plan at 58). Fitchburg proposes to weight savings and value determinants associated with Fitchburg's 2004 residential programs at 40 percent and 30 percent, respectively, instead of the 50 percent and 20 percent assigned in 2003 (id.). Fitchburg proposes that savings and value determinants associated with its 2004 commercial and industrial programs would be adjusted in the same manner as the residential programs, i.e., weights of 40 percent and 30 percent, respectively (id.).

B. DOER Report

DOER recommends adoption of the Company's 2004 shareholder incentive proposal (DOER Report at 4-5). DOER offers two reasons in favor of the proposal: (1) due to the precipitous decline in the three-month Treasury Bill rate, the performance incentive method prescribed in the DTE Guidelines is no longer adequate to motivate energy efficiency administrators to pursue the highest quality programs for ratepayers envisioned by the Legislature; and (2) the Department approved a similar proposal for Fitchburg's 2003 Energy Efficiency Plan (id. at 4-5, citing D.T.E. 03-44).

C. Analysis and Findings

When an entity seeking Department approval of its Plan requests a different method from that specified in the DTE Guidelines, the burden falls on that entity to demonstrate the compelling nature of such a request. DTE Guidelines at § 1(2). In this proceeding, Fitchburg has proposed: (1) a fixed shareholder incentive rate of five percent, instead of the Treasury

Bill rate in calculating its shareholder incentives; (2) an exemplary performance level of 110 percent of design level for use in its calculation of shareholder incentives; and (3) a slight adjustment to the weights assigned to the savings and value determinants.

The Department previously granted Fitchburg and other distribution companies an exception to the DTE Guidelines that allowed companies to use a fixed rate of five percent instead of the Treasury Bill rate in calculating shareholder incentives. D.T.E. 03-44, at 12 (2003); NStar Electric Company, D.T.E. 03-48, at 12 (2003); Western Massachusetts Electric Company, D.T.E. 03-43, at 12 (2003); Massachusetts Electric Company and Nantucket Electric Company, D.T.E. 03-2, at 17 (2003).

In determining incentive levels, the Department must reach a balance between two objectives: (1) promoting effective programs, and (2) protecting the interest of ratepayers. D.T.E. 98-100, at 21-22 (2000). While Fitchburg's proposed five percent after-tax rate exceeds the rate now provided for in the DTE Guidelines, it is near the middle of the range that DOER proposed in D.T.E. 98-100, and this rate was approved for Fitchburg's 2003 Energy Efficiency Plan in D.T.E. 03-44 (2003).⁷ The Department reaffirms that an incentive must be large enough to promote good program management, but small enough to leave almost all of the energy efficiency funds to directly serve customers. The Company's proposal balances these two objectives, and is consistent with DOER information that the Department

⁷ DOER has maintained that an incentive of four to six percent, equal to a three to four percent riskless real rate of return plus an inflation rate of one to two percent, would be sufficient to motivate electric companies to manage energy efficiency programs well. D.T.E. 98-100, at 36.

used in formulating the DTE Guidelines. The Department finds that the Company has met its burden to demonstrate the need for its request for an alternate method to calculate shareholder incentives in 2004. DTE Guidelines at § 1(2). Accordingly, the Department grants Fitchburg's request for an exception to the DTE Guidelines, and grants Fitchburg's request to use five percent in calculating after-tax shareholder incentives for the 2004 Plan.

Fitchburg's proposal to establish a threshold performance level of 75 percent and exemplary performance level of 110 percent of design level is supported by DOER and LEAN. Fitchburg raised the threshold performance level from the 70 percent approved in D.T.E. 03-44, to 75 percent, which is now in conformance with DTE Guidelines § 5.2. Also, in D.T.E. 03-44, the Department approved the use of an exemplary performance level of 110 percent of design level for use in calculating shareholder incentives for 2003. In consideration of Department precedent, DOER's conclusions, and the support of LEAN, the Department finds that the Company has demonstrated the reasonableness of its proposal to set the exemplary performance level to 110 percent of performance goals. Accordingly, the Department accepts Fitchburg's proposal to establish a threshold performance level of 75 percent and exemplary performance level of 110 percent of design level for 2004.

Distribution companies may express the level of performance they expect to achieve in implementation of their energy efficiency programs in levels of savings, in energy commodity and capacity, and in other measures of performance as appropriate. DTE Guidelines at § 5.2. Here, the Company has established "other measures of performance." Fitchburg proposes to continue the use of a savings determinant, a value determinant, and performance metric

determinant, as approved in D.T.E. 03-44 (2004 Plan at 58). However, Fitchburg proposes a slight reallocation of the weight assigned to the savings and value determinants for 2004 (id.). The Department recognizes that customers benefit when company programs perform at higher levels and at lower cost. We find that the Company's reallocation of weight assigned to the savings and value determinants is in accordance with that objective. Accordingly, the Department finds that the Company's proposed reallocation of the savings and value determinant weights for 2004 is appropriate. DTE Guidelines at § 5.2.

V. ORDER

Accordingly, after due notice, opportunity for public comment, and consideration, it is hereby

ORDERED: That the Petition of Fitchburg Gas and Electric Light Company for approval of its Energy Efficiency Plan for 2004 is APPROVED; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company follow all other directives contained in this Order.

By Order of the Department,

Paul G. Afonso, Chairman

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within 20 days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of 20 days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971.

